



## Proposed Regulation Agency Background Document

<b>Approving authority name</b>	Virginia Waste Management Board
<b>Virginia Administrative Code (VAC) citation</b>	9 VAC 20 – 80 – 10 et seq.
<b>Regulation title</b>	Virginia Solid Waste Management Regulations
<b>Action title</b>	Amendment 5
<b>Document preparation date</b>	January 7, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

The Department proposes that specific sections of 9 VAC 20-80 be amended to: 1). clarify the closure definition and procedure with particular reference to Code Section §10.1-1413.2 landfills; 2). address plans and actions related to the management of landfill gas and odors; 3). provide an option for facilities to apply for research, design, and development, and 4). Streamline public participation requirements by deleting automatic public hearings for certain permit or amendment issuance process. Secondly, the Department proposes in this amendment to broaden the definition of "airport" to include military airfields and to ensure consistent wording in sections concerning safety plans and permitting timeframes. Finally, the Department is incorporating citations referencing two new statutory provisions for: 1) landfill location that is protective with respect to water supplies and wetlands and 2) certification of permit application consistency with local government waste management plans.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

40 CFR Part 258 provides the federal authority for the criteria for municipal solid waste landfills. The web site address for Part 258 is:

<http://www.epa.gov/epahome/rules.html#codified>

The presently proposed amendment deals with the portions of the regulations that are affected by the federal requirements and are subject to the federal program approval. Therefore, the state regulations are broader in scope than the federal regulations. Provisions dealing with the siting of sanitary landfills adjacent to Airports currently only apply to public use airports. These siting restrictions will also be extended to the siting of landfills or transfer stations adjacent to military airports as well. Hazards from bird strikes exist for both civilian and military aircraft.

The Virginia Waste Management Act authorizes the Virginia Waste Management Board (Board) to supervise and control waste management activities in the Commonwealth and to promulgate regulations necessary to carry out its powers and duties. Article 2 of the Act prohibits the ownership or operation of an open dump, which is defined in §10.1-1400 to be any:

*...site on which solid waste is placed, discharged, deposited, injected, dumped, or spilled so as to create a nuisance or present a threat of a release of harmful substances into environment or present a hazard to human health.*

The Act further prohibits any person from operating a facility for the disposal, treatment, or storage of non-hazardous solid waste without a permit from the director of the department (§10.1-1408.1 A). The Act requires the permit to contain such conditions or requirements that would prevent a substantial present or potential danger to human health and the environment (§10.1-1408.1 E). Virginia Code §10.1-1402 (1) and (11) state:

*The Board shall carry out the purposes and provisions of this chapter and compatible provisions of federal acts and is authorized to:*

*1. Supervise and control waste management activities in the Commonwealth...*

*11. Promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and the federal acts, except that a description of provisions of any proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed, shall be provided to the standing committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly referable.*

The Virginia Waste Management Act is codified as chapter 14 sections 10.1-1400 through 10.1-1457 of the 1950 Code of Virginia, as amended. The web site address for the full text is:

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC1001000001400000000000>

## Purpose

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.*

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The amended regulation is needed to coordinate waste management practices with the statute amendments, other agencies and other programs, and to address issues and questions that have arisen since the regulations were last modified. The goal is to improve standards, make the regulations clear and enforceable and to protect human health and the environment.

Clarification of closure standards for old unlined landfills is needed to ensure that such landfills end operation in systematic order and in compliance with existing law. As housing development extends to the perimeter of previously remote old or active landfills, plans and early interaction notice is necessary to protect citizens from methane gas and odors. Replacement of an earlier program at the federal level with an optional new Research, Development, and Demonstration program inspired incorporation of that change into the Department's regulations.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

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The definition of closure has been clarified to define the endpoint more precisely and the definition of airport has been updated to include military facilities. Closure-related scheduling dates are added to clarify the limitations to enlargement of those Municipal solid waste landfills (sanitary landfills) that are subject to prioritization and a schedule for closure pursuant to §10.1-1413.2 of the Code of Virginia. Several new statutory provisions are incorporated that address certificates from local government on conformance with regional waste plans needed before units can be permitted. Even permit-by-rule facilities must be analyzed by local government for conformance with the regional solid waste management plan. A separate statutory provision on the location of landfills in the vicinity of water supplies and wetlands has been incorporated. Action levels will now be required for gas monitoring to give advance notification of elevated methane levels at landfills. A new section addresses odor concerns and odor plans. A new section allows applicants to apply for Research, Development, and Demonstration Plan Permits subject to standards set forth in accordance with 40 CFR 258.4. Public Hearing procedures are streamlined by deleting automatic public hearings for certain permit or amendment issuance process. Other minor changes related to review time limits, consistent safety plan clauses, landfill cover maintenance, and minor wording changes are included.

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

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Advantages to the public, as residential areas increasingly expand toward preexisting landfills, include improved safety and reduced odor in the vicinity of landfills. At the same time, compliance with the legally mandated closure schedule for old unlined landfills is ensured through improved wording and graphical illustration in the regulation. Hearing procedures are streamlined to improve efficiency of Department resources available to hold the hearings. Federal solid waste research, development, and demonstration regulatory standards are opened to the waste industry to ensure that technological advances in Virginia proceed on par with those in neighboring states.

**Requirements More Restrictive Than Federal**

*Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

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The RCRA Subtitle D program is not a program that is enforced directly by USEPA. It includes a basic solid waste management program with many state options that are adopted and administered by the states. Virginia’s program contains many additional details of siting, design, operation and permitting than the federal basic program. The Federal program has not developed standards for units that are not municipal solid waste management units, while Virginia regulates CDD, industrial landfills, incinerators and other units. Most if not all of the proposed amendment, by necessity, is broader in scope than Federal requirements.

**Locality Particularly Affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

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No localities are known to be particularly impacted by these regulations.

**Public Participation**

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulation on farm or forest land preservation.*

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal and on any impacts of the regulation on farm and forest land preservation. Also, the Board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so at the public hearing or by mail, email or fax to Allen R. Brockman, Post Office Box 1105, Richmond, VA 23218, 804-698-4468, fax: 804-698-4237, [arbrockman@deq.virginia.gov](mailto:arbrockman@deq.virginia.gov). Written comments must include the name and address of the commenter. In order to be considered comments must be received by 5:00 p.m. on the date established as the close of the comment period.

A public hearing will be held and notice of the public hearing can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time. Email and electronic media of standard format are accepted.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	The state program is ongoing. While it may benefit from increased efficiencies, these are unpredictable at this time.
<b>Projected cost of the regulation on localities</b>	No net increase in costs to localities from the historical costs associated with this regulation are anticipated.
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	Owners and operators of solid waste landfills and other solid waste management units.
<b>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	One hundred-forty-four to two hundred-twenty-two landfills (if closed facilities are included) will be involved. Out of these totals, 130 landfills are municipal or county government-owned and another 92 landfills are owned by private concerns. Forty-five percent of the privately owned landfills are small business as incorporated; however, some are part of larger multi-state firms.
<b>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</b>	This action will not have a significant economic impact on municipalities, individuals, small (or other) businesses, or other entities. The purpose of this amended regulation is to allow innovations at municipal solid waste landfills, to clarify existing provisions to specify regulatory endpoints, and to ensure that existing gas monitoring and remediation responses remain proactive. No new compliance costs are anticipated to result from the various clarifications of existing

	<p>provisions or of gas monitoring/remediation action levels, beyond the costs that were required in the preexisting regulation. The main changes deal with a clear specification of the timing of actions that have always been required under the regulations.</p> <p>The Research Development and Demonstration Plan, new in this amended regulation, would add no new requirements to the criteria for either existing or new landfill facilities, nor will it increase costs for new or existing landfills regardless of size. In conclusion, this regulation would not impose significant new burdens on municipalities, individuals, businesses or other entities. Instead, this amended regulation is expected to provide net annual benefits (in the form of regulatory relief; potential research, development, and innovation advancements; and long-term benefits) from the voluntary participation by facilities in the private sector.</p> <p>If an entity chooses to initiate a Research Development and Demonstration Plan under the proposed amendment, information needs will include annual reports, as specified in the amendment, as well as additional monitoring and testing information which may be required. Such additional monitoring requirements could include the measurement of leachate head on the liner; landfill temperature at various locations; type, application rate and application method of various wastes including liquid wastes and water that maybe placed in the landfill; additional hydraulic studies; landfill settlement rate determinations, etc. At present the department estimates that only two to three landfills a year will be permitted under this proposed rule over the next few years. Reporting requirements are estimated to cost between \$15,000 and \$25,000 per year per landfill. So total reporting costs are estimated at \$30,000 to \$75,000 per year for the first year and increasing at a rate of \$50,000 per year for the next three years thereafter. However, these potential costs are not burdens to any entity, because a facility's election to participate in the Research Development and Demonstration Plans section (for which these specific costs are listed), is strictly voluntary and not required for any entity.</p>
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**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

*Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

The technical advisory committee discussed the burden of some concepts and the agency used this advice in weighing the proposal. In many cases, the only alternative appears to be one of no action; however, the agency is requesting that the public review the proposal, suggest alternatives to be evaluated by the agency and to explain the cost and difficulties the public believes will arise from the proposed regulations should they become final regulations.

**Regulatory Flexibility Analysis**

*Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

The technical advisory committee discussed the burden of some concepts and the agency used this advice in weighing the proposal. In many cases, the only alternative appears to be one of no action; however, the agency is requesting that the public review the proposal, suggest alternatives to be evaluated by the agency and to explain any costs and difficulties the public believes will arise from the proposed regulations should they become final regulations.

Performance standards were discussed as they relate to landfill gas. However, landfills and units have no product streams and monitoring is normally only effective to alert one to the failure of the unit.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Koerber, Gary	Suggests definitions and sections related to airports and bird hazards.	Accept all and incorporated into proposal.
Forbes, Charles	Recommends flexible intake rates.	This proposed change is slated for a future amendment of the regulations.
	Recommends no change in odor standards.	Tried to minimize revision and allow flexibility.
	Recommends no change in leachate management standards.	No change is proposed at this time.
	Recommend review of major/minor amendment assignment.	Changes were proposed to the Technical Advisory Committee (TAC), but the TAC advised to save any such changes for a future amendment of the regulations, where

		appropriate
	Recommend new facilities be allowed only if they are in regional plan.	Statute and regulations propose this concept.
	Safety program changes not needed.	Comment was accepted and no safety program changes were pursued in this regulation.
Isper, Michael	Recommends allowing disposal of animal carcasses on right-of-way, etc.	Proposed exemption included in proposed regulation.
Graham, David	Forwarded HB 2192 and discussed its contents.	The related statutes as finally amended by the General Assembly are incorporated in the proposal.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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No impact on the institution of the family and family stability is anticipated with this amendment.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
10		Definition “Airport”	Modified to include military airfield along with public-use airports. (Approved by Technical Advisory Committee, 9/25/06 notes, p. 1, posted in meeting minutes elsewhere on the Virginia Town Hall.)
10		Definition “Closure”	Clarified to define, more precisely, the endpoint of closure. (Modelled on Technical Advisory Committee consensus, 9/25/06 notes, p. 2.)

60.B		pursuant to § 10.1-1413.2 of the Code of Virginia,	replaced former Code citation with “in Tables 2.1 and 2.2” to clarify the list of applicable facilities
60.B		Note: ... [referring to] § 10.1-1413.2 of the Code of Virginia	Removed this note to avoid redundancy with new Tables 2.1 and 2.2
60.B.3	60.B.3.a thru e and Tables 2.1 and 2.2	untitled section with general specification that the landfills subject to Code section §10.1-1413.2 cannot be enlarged prematurely to avoid compliance	Title added, section subdivided into subparts a through e, and two tables of affected facilities and closure-related scheduling dates are added to clarify the limitations to enlargement or closure of those Municipal solid waste landfills (sanitary landfills) that are subject to prioritization and a schedule for closure pursuant to §10.1-1413.2 of the Code of Virginia.  (Concept approved by Technical Advisory Committee, 9/25/06 notes, pp. 3 through 5.)
250.C.2.c		daily cover of 6 inches shall be placed upon all exposed solid waste before day’s end	Modified to “placed and maintained” to ensure that the protective cover is not to be diminished after the day’s end.  (Approved by Technical Advisory Committee, 9/25/06 notes, p. 6.)
250.C.2.d		intermediate cover of at least 6 inches of additional soil shall be applied whenever an additional lift of refuse is not to be applied within 30 days	Modified to “applied and maintained” to ensure that the additional protective cover is not to be diminished beyond the end of the 30 day period.  (Approved by Technical Advisory Committee, 9/25/06 notes, p. 6.)
250.C.2.e		final cover construction will be initiated in accordance with E 1 b requirements	Modified to “initiated and maintained” to ensure permanence of the protective cover.  (Approved by Technical Advisory Committee, 9/25/06 notes, p. 6.)
260.C.4		Safety hazards to operating personnel shall be prevented through an active safety program	For consistency with 250.C.5 modified to: “Safety hazards to operating personnel shall be <del>prevented</del> <u>controlled</u> through an active safety program <u>consistent with the requirements of 29 CFR Part 1910 .”</u>
270.C.3		Safety hazards to operating personnel shall be prevented through an active safety program	For consistency with 250.C.5 modified to: “Safety hazards to operating personnel shall be <del>prevented</del> <u>controlled</u> through an active safety program <u>consistent with the requirements of 29 CFR Part 1910 .”</u>
280 heading material		Venting and control of decomposition gases shall be implemented where required	Modified to: Venting and control of decomposition gases shall be implemented for all sanitary landfills under 9 VAC 20-80-250B and other landfills where required  Such venting is only routinely required at sanitary landfills, but it needed clarification

			that venting could be required for other landfill types on a case-by-case basis (for Technical Advisory Committee’s approval of gas section in general, see 9/25/06 notes, p. 10)
280 heading material		required under 9 VAC 20-80-250 B 8,	Struck out 9 VAC 20-80-250 B 8, which was an incorrect citation
280.A.2		written authorization to discontinue by the department	Modified to: “written authorization by the department to discontinue”  (to improve grammar and clarity; for Technical Advisory Committee’s approval of gas section in general, see 9/25/06 notes, p. 10)
280.A.4		based upon the results of monitoring data collected.	Modified to: “based upon the results of collected monitoring data.”  (to improve grammar and clarity; for Technical Advisory Committee’s approval of gas section in general, see 9/25/06 notes, p. 10)
280.B		Monitoring. To ensure that the conditions of this section are met,	Modified to: “Gas Monitoring. Subject to the preconditions in 9 VAC 20-80-250B, 9 VAC 20-80-260 B.9, and 9 VAC 20-80-270 B.18,”  (to distinguish gas from groundwater monitoring, and to clarify the applicable conditions by direct citations; (for Technical Advisory Committee’s approval of gas section in general, see 9/25/06 notes, p. 10))
280.C.1 & 2	280.B.4	C. Monitoring frequency.  1. As a minimum, quarterly monitoring is required.  2. More frequent monitoring may be required by the department at those locations where results of monitoring indicate that decomposition gas migration is occurring or is accumulating in structures to detect migrating gas and ensure compliance with subsection A of this section.	Replaced by: “B.4. At a minimum, the gas monitoring frequency shall be quarterly. The department may require more frequent monitoring at locations where monitoring results indicate gas migration or gas accumulation in devices or structures designed to detect migrating gas.”  (To consolidate and clarify the conditions under which the department would require monitoring actions above the minimum standards, as approved by the Technical Advisory Committee, (for Committee’s approval of gas section in general, see 9/25/06 notes, p. 10).)

	280.D.1 thru 3	No section on odor existing in the old regulation	<p>Added the following section to the regulation:</p> <p>D. Odor Management</p> <p>1. When an odor nuisance or hazard is created under normal operating conditions and upon notification from the department, the permittee shall, within 90 days, develop and implement an odor management plan to address odors that may impact citizens beyond the internal property boundaries. The permittee shall place the plan in the operating record and a copy shall be submitted to the department for its records. <u>Odor management plans developed in accordance with the Virginia Operating Permit Program 9VAC5-80-40 or other state air pollution control regulations will suffice for the provisions of this section (D).</u></p> <p>2. The plan shall identify a contact at the facility that citizens can notify about odor concerns.</p> <p>3. Facilities shall perform and document an annual review and update the odor management plan, as necessary, to address ongoing odor management issues.</p> <p>(This odor section was added, with the approval of the Technical Advisory Committee, 9/25/06 notes, p. 10, to address concerns that had been raised by citizens across the State who live in the vicinity of landfills).</p>
280.D heading material	280.D heading material	D. Recordkeeping. The owner or operator shall keep the records of the results of gas monitoring throughout the active life	<p>Modified to: "E. Recordkeeping. The owner or operator shall keep the records of the results of gas monitoring and any gas remediation issues, throughout the active life"</p> <p>(to reflect the need to collect gas remediation issue records as well as gas monitoring records; (see Technical Advisory Committee's approval of section in general, 9/25/06 notes, p. 10).)</p>
280.D heading material	280.D heading material	The monitoring records shall include:	<p>Removed the word "monitoring," because not all the records listed consist solely of monitoring data (see Technical Advisory Committee's approval of section in general, 9/25/06 notes, p. 10).</p>
280.D	280.D.5		New section added:

			<p>“E.5. Monitoring and design records for any gas remediation or control system.”</p> <p>This section was added with the approval of the Technical Advisory Committee, to specifically address the collection of remediation records (see Technical Advisory Committee’s approval of section in general, 9/25/06 notes, p. 10).</p>
280.E	280.C.1.a & b	<p>No prior section on action levels in 280.E; only compliance levels were addressed in old 280.E</p>	<p>New section on action levels was added with the approval of the Technical Advisory Committee (see approval of section in general, 9/25/06 notes, p. 10) to ensure rapid response to conditions in advance of the attainment of compliance levels and notification to the department. The action levels, if not addressed, could eventually impact human health and the environment:</p> <p>“C. Gas Remediation.</p> <p>1. When the gas monitoring results indicate concentrations of methane in excess of the action levels, 25% of the lower explosive limit for methane in facility structures (excluding gas control or recovery system components) or 80% of the lower explosive limit for methane at the facility boundary, the operator shall:</p> <p>a. Take all immediate steps necessary to protect public health and safety including those required by the contingency plan.</p> <p>b. Notify the department in writing within five working days of learning that action levels have been exceeded, and indicate what has been done or is planned to be done to resolve the problem.”</p>
280.E.1.a thru c	280.C.2	<p>E. Control.</p> <p>1. When the results of gas monitoring indicate concentrations of methane in excess of the compliance levels required by subdivision A 1 of this subsection, the operator shall:</p>	<p>Modified to: “C. Gas Remediation</p> <p>2. When the gas monitoring results indicate concentrations of methane in excess of the compliance levels, 25% of the LEL for methane in facility structures (excluding gas control or recovery system components) or the lower explosive limit for methane at the facility</p>

		<p>a. Take all immediate steps necessary to protect public health and safety including those required by the contingency plan.</p> <p>b. Notify the department in writing within five working days of learning that compliance levels have been exceeded, and indicate what has been done or is planned to be done to resolve the problem.</p> <p>c. Within 60 days of detection, implement a remediation plan for the methane gas releases and submit it to the department for approval and amendment of the facility permit. The plan shall describe the nature and extent of the problem and the proposed remedy.</p>	<p>boundary, the operator shall, within 60 days of detection, implement a gas remediation plan for the methane gas releases and submit it to the department for amendment of the facility permit. The plan shall describe the nature and extent of the gas migration and the proposed remedy. The plan shall include an implementation schedule specifying timeframes for implementing corrective actions, evaluating the effectiveness of such corrective actions and milestones for proceeding in implementation of additional corrective actions, if necessary to reestablish compliance.”</p> <p>(This section was modified, with the approval of the Technical Advisory Committee, 9/25/06 notes, p. 8, to provide better specification of the details and the scheduling in a gas remediation plan to address exceeded gas compliance levels. The old wording was not sufficiently cognizant of the fact that remediation activities go beyond simple control of gas flow. Gas remediation involves the identification of causes and a remedy for high gas levels. The wording here is intended to clarify such differences, of what details the plan should consist, and when it should be scheduled and initiated )</p>
<p>280.E.2.a thru c</p>	<p>280.C.3. a thru c</p>	<p>2. A gas control system shall be designed to:</p> <p>a. Prevent methane accumulation in on-site structures.</p> <p>b. Reduce methane concentrations at monitored property boundaries to below compliance levels in the timeframes specified in the gas remediation plan.</p>	<p>Modified to: “3. A gas remediation system shall:</p> <p>a. Prevent methane accumulation in on-site structures.</p> <p>b. Reduce methane concentrations migrating beyond the monitored property boundaries to below compliance levels in the timeframes specified in the gas remediation plan.</p> <p>c. Provide for the collection and treatment and/or disposal of decomposition gas condensate produced at the surface. Condensate generated from gas control systems</p>

		<p>c. Provide for the collection and treatment and/or disposal of decomposition gas condensate produced at the surface. Condensate generated from gas control systems may be recirculated into the landfill provided the facility complies with the liner and leachate control systems requirements of this part. Condensate collected in condensate traps and drained by gravity into the waste mass will not be considered recirculation.</p>	<p>may be recirculated into the landfill provided the facility complies with the liner and leachate control systems requirements of this part. Condensate collected in condensate traps and drained by gravity into the waste mass will not be considered recirculation.”</p> <p>(This section was modified, with the approval of the Technical Advisory Committee (see Committee’s approval of section in general, 9/25/06 notes, p. 10), to provide better specification of the details and the scheduling in a gas remediation plan to address exceeded gas compliance levels. The old wording was not sufficiently cognizant of the fact that remediation activities go beyond simple control of gas flow. Gas remediation involves the identification of causes and a remedy for high gas levels. The wording here is intended to clarify such differences, of what details the plan should consist, and when it should be scheduled and initiated )</p>
<p>280.E.3</p>	<p>280.C.4</p>	<p>3. Extensive systems to control emissions of non-methane organic compounds may be required under the Clean Air Act (40 CFR 60.33c and 40 CFR 60.750) and 9 VAC 5-40-5800. Facilities that are required to construct and operate systems designed to comply with those regulations will be considered to be in compliance with the requirements of subdivisions 2 a and b of this subsection. Gas control systems also may be subject to the Virginia Operating Permit Program 9 VAC 5-80-40 or other state air pollution control</p>	<p><b>The wording of this section was not changed (except as noted below).</b> The location in the structure of the regulation was changed (from E.3 to C.4) and the internal citation to E.2 a and b was updated to C.3 a and b: “4. Extensive systems to remediate emissions of non-methane organic compounds may be required under the Clean Air Act (40 CFR 60.33c and 40 CFR 60.750) and 9 VAC 5-40-5800. Facilities that are required to construct and operate systems designed to comply with those regulations will be considered to be in compliance with the requirements of subdivisions 3 a and b of this subsection, <u>unless monitoring data continues to indicate an exceedance of compliance levels.</u> Gas control systems also may be subject to the Virginia Operating Permit Program 9 VAC 5-80-40 or other state air pollution control regulations.”</p>

		regulations.	(Structure of the gas section approved by Technical Advisory Committee, subject to the specific revisions indicated in 280 9/25/06 notes, p. 6.)
280.E	280.C.5	No prior section on this topic in 280.E.	<p>Wording added: “5. The facility shall notify the department of an initial exceedance of the compliance level or unusual condition which may endanger human health and the environment, in accordance with 9 VAC 20-80-570.C.3, such as when an active gas remediation system is no longer operating in such a manner as to maintain compliance with this section.”</p> <p>(This wording was added, with the approval of the Technical Advisory Committee, 9/25/06 notes, p. 9.) to maintain similar reporting requirements stated elsewhere in 9 VAC 20-80 for compliance exceedances and unusual conditions.)</p>
485.A.7		Upon receiving the certifications and other required documents, including the results of the public meeting and the applicant's response to the comments received, the director will acknowledge their receipt within 10 working days.	acknowledgment turnaround changed to: “within 30 days” to reflect the Department’s processing time requirements, but includes weekends and holidays in the time period. (Approved by Technical Advisory Committee, 9/25/06 notes, p. 10.)
485	485.D	No prior section on this topic in 485	<p>A new section concerning a new optional program for applicants, for a Research, Development, and Demonstration Plan for landfills which is now offered by USEPA, subject to standards set forth in accordance with 40 CFR 258.4.</p> <p>(A consensus of the Technical Advisory Committee voted its support for including a Research, Development, and Demonstration Plan section in the revised regulation, 9/25/06 notes, p. 15)</p>
500.B.3		There was no prior citation to statutory provision for plan consistency.	<p>To the end of this section is appended: “Permit and Permit-by-rule applicants shall comply with the statutory requirements for consistency with solid waste management plans as recorded in §§ 10.1-1408.1.B.9, D.1, and R of the Code of Virginia.”</p> <p>This citation is included in 500.B.3 as the most appropriate location to indicate the new statutory requirement passed in the</p>

			2006 legislative session. (Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)
500.C.2		The Part A application will be reviewed for completeness. The applicant will be notified within fifteen days whether the application is administratively complete or incomplete. If complete information is not provided within thirty days after the applicant is notified, the application will be returned to the applicant without further review.	<p>Changes to this section, as approved by the Technical Advisory Committee, are underlined (below). The changes are to more accurately reflect the Department's processing time requirements along with the Committee's concern that applicant's not face a second assessment for timely application resubmittals (sent within 18 months).</p> <p>"The applicant will be notified within <u>30</u> days whether the application is administratively complete or incomplete. If complete information is not provided within <u>60</u> days after the applicant is notified, <u>or an alternate timeframe approved by the department</u>, the application will be returned to the applicant without further review. <u>Subsequent resubmittals of the application, submitted after eighteen months from the date of the department's response letter, shall be considered as a new application.</u>"</p> <p>(Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)</p>
500.E.2		A notice of the availability of the proposed draft permit shall be made in a newspaper with general circulation in the area where the facility is to be located. A copy of the notice of availability will be provided to the chief administrative officer of all cities and counties that are contiguous to the host community.	<p>The original language was modified (as below) to clarify the public notification process: "<u>Copies of the draft permit will be available for viewing at the applicant's place of business or at the regional office of the department, or both, upon request.</u> A notice of the availability of the <del>proposed</del> draft permit shall be made in a newspaper with general circulation in the area <del>where</del> <u>of</u> the facility <del>is to be located</del>. A copy of the notice of availability will be provided to the chief administrative officer of all cities and counties that are contiguous to the host community."</p> <p>(Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)</p>
500.E.2	new 500.E.3 through E.6	A public hearing will be scheduled and the notice shall be published at least 30 days in advance of the public hearing on the draft permit. Copies of the proposed draft permit will be available for viewing at the applicant's place of business or at the regional	<p>These words have been removed from this section and reworked into new sections 500.E.3 through 6 (elsewhere, below in this table) to indicate both the circumstances in which a public hearing is required and when a public hearing is optional.</p> <p>(Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)</p>

		office of the department, or both, upon request in advance of the public hearing.	
500.E.3	new 500.E.6	3. The department shall hold the announced-public hearing 30 days or more after the notice is published in the local newspaper. The public hearing shall be conducted by the department within the local government jurisdiction where the facility is to be located. A comment period shall extend for a 15-day period after the conclusion of the public hearing.	<p>This section has been modified to reflect that a public hearing is optional in some circumstances (as indicated in new 500.E.3 through 500.E.5) other language has been clarified to provide consistency with wording changes elsewhere in 500.E.:</p> <p><u>“6. If a public hearing is to be held, The the department shall <del>hold</del> convene it the announced public hearing</u> 30 days or more after the notice is published in the local newspaper. The public hearing shall be conducted <del>by the department</del> within the local government jurisdiction <del>where of</del> the facility <del>is to be located</del>. A comment period shall extend for a 15-day period after the conclusion of the public hearing.”</p> <p>(Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)</p>
500.E.4 through 7	new 500.E.7 through 10		<p>No changes (other than for E.4--see the next line of this table) have been made to the wording of these sections. They have been renumbered as sections 7 through 10 in the reorganization of 500.E.</p> <p>(Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)</p>
500.E.4	500.E.7	A final decision to permit, to deny a permit or to amend the draft permit shall be rendered by the director within 30 days of the close of the hearing comment period.	The word “final” has been removed, as approved by the Technical Advisory Committee, 9/25/06 notes, p. 11, because this is not a final decision. It remains subject to the internal departmental appeals process.
500.E	new 500.E.3 through E.5		<p>The three new sections, below, have been added to indicate both the circumstances in which a public hearing is required and when a public hearing is optional:</p> <p>“3. If the application is for a new landfill or an increase in landfill capacity, then the department shall hold a public hearing and the notice above will include such information.</p> <p>4. For any application (other than 3 above), the notice will include the opportunity to</p>

			<p>request a public hearing. The department shall hold a public hearing on the draft permit whenever the department finds, on the basis of requests, that:</p> <ul style="list-style-type: none"> <li>a. there is a significant public interest in the issuance, denial, modification or revocation of the permit in question;</li> <li>b. there are substantial, disputed issues relevant to the issuance, denial, modification or revocation of the permit in question; and</li> <li>c. the action requested is not, on its face, inconsistent with, or in violation of, these regulations, the Waste Management Act, or federal law or regulations.</li> </ul> <p>5. The department also may hold a public hearing when it is believed that such a hearing might clarify one or more issues involved in a permit decision.”</p> <p>(Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)</p>
510.H.1		<p>There was no prior citation to statutory provision for plan consistency.</p>	<p>To the end of this section is appended: “This report shall comply with the statutory requirements for siting landfills in the vicinity of public water supplies or wetlands as recorded in §§ 10.1-1408.4 and 10.1-1408.5 of the Code of Virginia.”</p> <p>This citation is included in 510.H.1 as the most appropriate location to indicate the new statutory requirement. (Approved by Technical Advisory Committee, 9/25/06 notes, p. 11.)</p>